

## REMARKS

Claims 1-10, 12-26 and 36 are pending in the present Application. Neither the specification nor the claims have been amended. Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

### Claim Rejections Under 35 U.S.C. § 102(b) and 103(a)

Claims 1-8, 10, 12-14, 16, 17, 19, 20, 25, and 36 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by, or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,270,386 to Laughner ('386). Applicants respectfully traverse this rejection.

Claims 1-10, 12-26, and 36 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over United States Patent No. 5,270,386 or United States Patent No. 5,262,476 to Laughner. Applicants respectfully traverse this rejection.

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Variet Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987). Similarly, for an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Applicants respectfully request withdrawal of the rejection because '386 and '476 do not disclose all the elements of the instant claims.

First, '386 does not teach melt mixing a poly(arylene ether) concentrate with an additional component or components as required by independent claims 1, 20, 21, 25, 26 and 36 of the instant application. '386 teaches a vinyl aromatic copolymer composition comprising a blend of a vinyl aromatic copolymer and a poly(phenylene ether) concentrate. In examples 1-27, the vinyl aromatic copolymer compositions are prepared by dry blending *all* of the ingredients of the composition and then melt mixing the dry blended ingredients (Col. 28, lines 40-50). '386 does not teach melt mixing the poly(phenylene ether) concentrate with an additional component or components as is instantly claimed. As a result the pending claims

can neither be anticipated nor obvious under '386.

Second, '476 does not teach melt mixing a poly(arylene ether) concentrate with an additional component or components as required by independent claims 1, 20, 21, 25, 26 and 36 of the instant application. '476 discloses blends of a poly(phenylene ether) concentrate, a polycarbonate and a polyester (Abstract). In examples 1-26, the polycarbonate/polyester compositions are prepared by dry blending *all* of the ingredients of the composition and then melt mixing the dry blended ingredients (Col. 28., lines 53-63). '476 does not disclose melt mixing a poly(phenylene ether) concentrate with a component or components as instantly claimed. As a result the pending claims cannot be obvious over '476.

The Examiner is respectfully reminded that the pending claims are method claims, not composition claims. While the compositions of '386 and '476 have some similar components neither reference teaches the instantly claimed method. Reconsideration and withdrawal of this rejection are respectfully requested.

#### Nonstatutory Double Patenting Rejections

Claims 1-7, 10, 12-17, 19, 25 and 36 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-46 of United States Patent No. 6,908,964 to Adedeji, et al. (Adedeji). Claims 1, 3-7, 10, 12-17, 19, 25 and 36 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-46 of United States Patent No. 6,627,701 to Adedeji, et al. (Adedeji). As the claims are not final, it is not possible to make any determination as to double patenting or obviousness at this time. When all other rejections are resolved applicants will then evaluate the need for a terminal disclaimer.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-1131.

Respectfully submitted,

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